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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

MISLEH, JUSTIN P

ART UNIT PAPER NUMBER

2612

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/068,995

Applicant(s)

VOSS ET AL.

Examiner

Justin P. Misleh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 14, 17 - 29, and 32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 14, 17 - 29, and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed August 5, 2005 have been fully considered but they are not persuasive. The Examiner accepts Applicant's amendments to the specification and drawings; there are no further objections at this time.

Claims 1-8, 14, 18-23 and 29

2. Applicant argues, "*Monti* is concerned with 'a need for capturing high higher resolution and/or higher quality images so that the stored data contain more detail and use information for the investigations.' (see col. 1, lines 54-56) *Hori* does not disclose capturing higher resolution and/or higher quality images, since the still images are generated as a result of capturing video images and 'repeatedly read image data for one frame stored in the memory.' (see col. 5, lines 3-6, and also col. 1, lines 21-25 and col. 3, lines 27-30) Thus, the modifications to *Monti* as suggested by *Hori* would likely render *Monti* unsatisfactory of its intended purpose, which is symptomatic of an improper combination according to MPEP 2143.01."

3. Applicant's arguments are erroneous. For instance, *Monti* relates towards, as stated in column 1 (lines 31 and 32 and 65 – 67) and column 2 (lines 1 – 4), "cameras and, more particularly, to multi-mode cameras ... broadly speaking ... an image acquisition system ... that supports multiple modes of operation ... used to acquire and store not only video images but also still images." *Monti* also indicates, in column 1 (lines 60 – 62), "there is a need for a ... camera that can yield high resolution images." In similar fashion to *Monti*, *Hori* relates towards, as

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stated in column 1 (lines 7 – 10), “a recording apparatus and, more particularly, to a recording apparatus capable of recording moving and still images.” Again in similar fashion to Monti, Hori also indicates, in column 1 (lines 45 – 48), “it is still another object of the present invention to record still images having a higher resolution.” Thus, the modifications to Monti as suggested by Hori would not render Monti unsatisfactory of its intended purpose (emphasis added).

Claims 9 and 24

4. Applicant argues, “In column 6, line 5, *Monti* provides that the ‘video image is one frame, field, or section in a video stream.’ In column 6, line 55, the reference numeral 220 is associated with a video stream, not video frame. The prior cited section (col. 6, line 55) makes it clear that a video stream is not a video frame. Thus, it cannot be said that *Monti* discloses *dividing the sequence of video data captured during the first mode of operation into video frames*, since no such delineation is apparent. Further, and related to the above discussion, is that video frames that comprise a stream or at least a portion of a stream appear consecutively in FIGs. 2B and 2C, and not alternating sequentially between video and still frames as required by independent claim 9.”

5. The Examiner respectfully disagrees with Applicant’s position. Monti discloses, as stated in column 5 (line 66) – column 7 (line 15), a dual mode camera with a first mode for capturing a “series of the video images” wherein “series of the video images combine to form a video stream ... 220” and a second mode for the “capture of still images” so as to form a “still image series 222.” The “interlace interval represents the duration of time between capture of still images” wherein “once the ... the interlace interval has elapsed, then a still image is captured.”

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Further, figure 2A demonstrates how the “interlace interval” in Step 208 functions as the switch between the first mode, corresponding to at least Steps 204 and 206, and the second mode, corresponding to at least Steps 210 and 212. Thus, as specifically stated in column 6 (lines 42 – 50), it can be concluded that Monti discloses a “capturing a sequence of video data” and “capturing data,” as claimed.

6. Moreover, Monti provides an additional aspect wherein an “image stream 230 combines video stream portions 232 (i.e., series of video images) and still images 234 within the image stream 230” (see figure 2B and column 6, line 65 – column 7, line 1). “The still images 234 are embedded or integral with the video stream 230” wherein “the still images 234 are interlaced in the image stream 230 between a pair of video stream portions 232” (see figure 2C and column 7, lines 2 – 10). The “video stream portions 232” or series of video images directly corresponds to the claimed “video frames” and the “still images 232” directly corresponds to the claimed “still frames.” Thus, Monti clearly discloses dividing the “video data” in video frames and the captured “data” in still frames and sequentially alternating the video frames and the still frames.

7. Finally, in direct response to Applicant’s argument “that video frames that comprise a stream or at least a portion of a stream appear consecutively in FIGs. 2B and 2C, and not alternating sequentially between video and still frames;” the claim language is written broadly enough such that it is not required that a single video frame and a single still frame must alternate sequentially. Rather, the claim language allows for alternating a plurality of video frames with a plurality of still frames exactly as is shown in figure 2C of Monti.

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Claims 17 and 32

8. As stated, “Applicants transverses the Examiner’s use of official notice.” In support thereof, Applicant’s state, “Applicants respectfully traverse this finding of well-known art and submit that the subject matter noted above should not be considered well known.”

9. However, “to adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner’s action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art “ (emphasis added). See MPEP §2144.03. Applicant’s traversal amounts to a mere allegation of patentability over the common knowledge/well-known in the art. The MPEP states, “A general allegation that the claims define a patentable invention ... would be inadequate.” Again see MPEP§2144.03. Thus, it is clear Applicant’s traversal is inadequate – the Examiner is not required to provide documentary evidence in this Office Action to maintain the rejection.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. **Claims 9 – 13 and 24 – 28** are rejected under 35 U.S.C. 102(e) as being anticipated by Monti.

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For the following rejections, please refer in Monti to figures 2A, 2B, 2C, and 2D and as stated in columns 3 (lines 43 – 50 and 62 – 67), 4 (lines 1 – 11 and 37 – 52), 5 (lines 12 – 15, 35 – 41, and 50 – 67), 6 (lines 1 – 11, 42 – 50, and 65 – 67), and 7 (lines 1 – 15 and 26 – 39).

12. For **Claim 9**, Monti discloses a method for capturing and embedding high-resolution still image data in a sequence of video data, comprising:

capturing a sequence of video data (204; see figure 2A) during a first mode of operation (“video mode”), the sequence of video data captured at a first resolution (“broadcast resolution of about 720x480 pixels”);

entering into a second mode of operation (“still mode”), the second mode of operation being at a second resolution (“the video ... correspond to a low quality video broadcast standard ... the still image are typically high resolution and quality”), the second resolution being greater than the first resolution (see column 7, lines 9 – 15);

capturing data at the second resolution (210; see figure 2A); and

storing the data captured at the second resolution (212; see figure 2A).

13. For **Claim 24**, Monti discloses a computer readable media having a program for capturing and embedding high-resolution still image data in a sequence of video data (Monti specifically states, in column 4 – lines 1 – 11, “system-on-chip integration with image processing hardware, such as a RISC ... or DSP, and memory ... allowing generation of both high quality still images in addition to broadcast quality video data in real-time.”), the program comprising logic for:

capturing a sequence of video data (204; see figure 2A) during a first mode of operation (“video mode”), the sequence of video data captured at a first resolution (“broadcast resolution of about 720x480 pixels”);

entering into a second mode of operation (“still mode”), the second mode of operation being at a second resolution (“the video ... correspond to a low quality video broadcast standard ... the still image are typically high resolution and quality”), the second resolution being greater than the first resolution (see column 7, lines 9 – 15);

capturing data at the second resolution (210; see figure 2A); and

storing the data captured at the second resolution (212; see figure 2A).

14. As for **Claims 10 and 25**, Monti discloses, as stated in column 4 (lines 37 – 52), wherein the second mode of operation (“still mode”) captures data corresponding to still image data.

15. As for **Claims 11 and 26**, Monti discloses, as shown in figure 2C and as stated in column 6 (line 65) – column 7 (line 8), logic for embedding the still image data (234) between frames of video data (232).

16. As for **Claims 12 and 27**, Monti discloses, as stated in columns 5 (lines 12 – 15) and 7 (lines 9 – 15), wherein the video data has a resolution of at least 720 pixels by 480 pixels and also discloses that the still image data is over higher resolution and higher quality than the video data; hence, the still image data has a resolution of at least 640 pixels by 480 pixels.

17. As for **Claims 13 and 28**, Monti discloses, as stated in column 5 (lines 35 – 41) further comprising logic for toggling (“the mode of the camera can be automatically switched between the video mode and still mode”) between the first resolution (“video mode”) and the second resolution (“still mode”).

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18. As for **Claims 16 and 31**, Monti discloses, as shown in figure 2D and as stated in column 7 (lines 25 – 39), wherein the video frames and the still frames alternate non-sequentially (“two successive still images are acquired”).

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. **Claims 1 – 8, 14, 18 – 23, and 29** are rejected under 35 U.S.C. 103(a) as being unpatentable over Monti in view of Hori.

21. For **Claim 1**, Monti discloses, as shown in figures 2A, 2B, 2C, and 2D and as stated in columns 3 (lines 43 – 50 and 62 – 67), 4 (lines 1 – 11 and 37 – 52), 5 (lines 12 – 15, 35 – 41, and 50 – 67), 6 (lines 1 – 11, 42 – 50, and 65 – 67), and 7 (lines 1 – 15 and 26 – 39), a system for capturing and embedding high-resolution still images in a sequence of video data, comprising:

an image capture element (108; see figure 1) for capturing a sequence of video data (204; see figure 2A) during a first mode of operation (“video mode”), the sequence of video data captured at a first resolution (“broadcast resolution of about 720x480 pixels”);

entering into a second mode of operation (“still mode”), the second mode of operation being at a second resolution (“the video ... correspond to a low quality video broadcast standard ... the still image are typically high resolution and quality”), the second resolution being greater than the first resolution (see column 7, lines 9 – 15);

a memory (114; see figure 1) for storing data captured at the second resolution (210 and 212; see figure 2A and column 4, lines 54 – 67).

While Monti discloses, as stated in column 5 (lines 35 – 41), that the system automatically switches between the first video data capture mode and the second still image data capture mode, Monti does not disclose a user interface for entering in the second mode of operation.

On the other hand, Hori also discloses a system for capturing and embedding high-resolution still images in a sequence of video data. More specifically, Hori teaches, as shown in figure 1 and as stated in column 4 (line 44) – column 5 (line 1 – 9), that while a moving image is being record in the moving image mode if an instruction is received from the still image recording switch 10, still image data is recorded wherein after the still image data is recorded the moving image mode continues to record moving images again. In other words, a user of the system (“digital VTR”) is provided with a switch (10) for toggling between capturing video frames (“moving image”) and capturing a still image while in the digital VTR is in video mode (moving image mode”).

As stated in column 6 (lines 30 – 59) of Hori, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have included a user interface a user interface for entering in the second mode of operation, as taught by Hori, in the system for capturing and embedding high-resolution still images in a sequence of video data, disclosed, by Monti, for the advantage providing a high quality still image data that can be used in printing while reducing the amount of wasted storage space in a recording medium.

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22. For **Claim 18**, Monti discloses, as shown in figures 2A, 2B, 2C, and 2D and as stated in columns 3 (lines 43 – 50 and 62 – 67), 4 (lines 1 – 11 and 37 – 52), 5 (lines 12 – 15, 35 – 41, and 50 – 67), 6 (lines 1 – 11, 42 – 50, and 65 – 67), and 7 (lines 1 – 15 and 26 – 39), a digital video camera (see figure 1) having a system for capturing and embedding high-resolution still images in a sequence of video data, comprising:

an image capture element (108; see figure 1) for capturing a sequence of video data (204; see figure 2A) during a first mode of operation (“video mode”), the sequence of video data captured at a first resolution (“broadcast resolution of about 720x480 pixels”);

entering into a second mode of operation (“still mode”), the second mode of operation being at a second resolution (“the video ... correspond to a low quality video broadcast standard ... the still image are typically high resolution and quality”), the second resolution being greater than the first resolution (see column 7, lines 9 – 15);

a memory (114; see figure 1) for storing data captured at the second resolution (210 and 212; see figure 2A and column 4, lines 54 – 67).

While Monti discloses, as stated in column 5 (lines 35 – 41), that the system automatically switches between the first video data capture mode and the second still image data capture mode, Monti does not disclose a user interface for entering in the second mode of operation.

On the other hand, Hori also discloses a system for capturing and embedding high-resolution still images in a sequence of video data. More specifically, Hori teaches, as shown in figure 1 and as stated in column 4 (line 44) – column 5 (line 1 – 9), that while a moving image is being record in the moving image mode if an instruction is received from the still image

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recording switch 10, still image data is recorded wherein after the still image data is recorded the moving image mode continues to record moving images again. In other words, a user of the system ("digital VTR") is provided with a switch (10) for toggling between capturing video frames ("moving image") and capturing a still image while in the digital VTR is in video mode (moving image mode").

As stated in column 6 (lines 30 – 59) of Hori, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have included a user interface a user interface for entering in the second mode of operation, as taught by Hori, in the system for capturing and embedding high-resolution still images in a sequence of video data, disclosed, by Monti, for the advantage providing a high quality still image data that can be used in printing while reducing the amount of wasted storage space in a recording medium.

23. As for **Claims 2 and 19**, Monti discloses, as stated in column 4 (lines 37 – 52), wherein the second mode of operation ("still mode") captures data corresponding to still image data.

24. As for **Claims 3 and 20**, Monti discloses, as shown in figure 2C and as stated in column 6 (line 65) – column 7 (line 8), embedding the still image data (234) between frames of video data (232).

25. As for **Claims 4 and 21**, Monti discloses, as stated in columns 5 (lines 12 – 15) and 7 (lines 9 – 15), wherein the video data has a resolution of at least 720 pixels by 480 pixels and also discloses that the still image data is over higher resolution and higher quality than the video data; hence, the still image data has a resolution of at least 640 pixels by 480 pixels.

26. As for **Claims 5 and 22**, Hori discloses, as shown in figure 1 and as stated in column 4 (line 44) – column 5 (line 1 – 9), wherein the user interface (switch 10) allows toggling between

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the moving image mode and the still image mode. Hori further teaches, as stated in column 6 (lines 30 – 39), that the still images are always recorded in a low compression mode while the moving images may be recorded in a high compression mode, hence, the user interface allows toggling between the first resolution (moving images) and the second resolution (still images).

27. As for **Claims 6 and 23**, Hori discloses, as shown in figure 1, wherein the toggling between the first resolution (moving images) and the second resolution (still image) occurs using a single control on the user interface (still image recording switch 10).

28. As for **Claim 7**, Monti discloses, as shown in figure 2B and as stated in column 5 (line 66) – column 6 (line 1 – 11), dividing the sequence of video data captured during the first mode of operation into video frames (220); dividing the data generated at the second resolution into still frames (224); and sequentially alternating the video frames and the still frames (see figures 2B and 2C).

29. As for **Claim 8**, Monti discloses, as shown in figure 2D and as stated in column 7 (lines 25 – 39), wherein the video frames and the still frames alternate non-sequentially (“two successive still images are acquired”).

30. As for **Claims 14 and 29**, While Monti discloses, as stated in column 5 (lines 35 – 41), that the system automatically switches between the first video data capture mode and the second still image data capture mode, Monti does not disclose a user interface for entering in the second mode of operation, wherein the user interface allows toggling between the first resolution and the second resolution occurs using a single control on the user interface.

On the other hand, Hori also discloses a system for capturing and embedding high-resolution still images in a sequence of video data. More specifically, Hori teaches, as shown in

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figure 1 and as stated in column 4 (line 44) – column 5 (line 1 – 9), that while a moving image is being record in the moving image mode if an instruction is received from the still image recording switch 10, still image data is recorded wherein after the still image data is recorded the moving image mode continues to record moving images again. In other words, a user of the system (“digital VTR”) is provided with a single switch (10) for toggling between capturing video frames (“moving image”) and capturing a still image while in the digital VTR is in video mode (moving image mode”). Hence, Hori teaches wherein the toggling between the first resolution (moving images) and the second resolution (still image) occurs using a single control on the user interface (still image recording switch 10).

As stated in column 6 (lines 30 – 59) of Hori, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have included a user interface a user interface for entering in the second mode of operation, as taught by Hori, in the system for capturing and embedding high-resolution still images in a sequence of video data, disclosed, by Monti, for the advantage providing a high quality still image data that can be used in printing while reducing the amount of wasted storage space in a recording medium.

31. **Claims 17 and 32** are rejected under 35 U.S.C. 103(a) as being unpatentable over Monti.

32. As for **Claims 17 and 32**, while Monti discloses entering into a second mode of operation (“still mode”), the second mode of operation being at a second resolution (“the video ... correspond to a low quality video broadcast standard ... the still image are typically high resolution and quality”), the second resolution being greater than the first resolution (see column 7, lines 9 – 15); capturing data at the second resolution (210; see figure 2A); and storing the data

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captured at the second resolution (212; see figure 2A), Monti does not disclose transferring stored high resolution high quality still image data to a printing device and using the stored high resolution high quality still image data to render a photograph.

However, Official Notice (MPEP § 2144.03) is taken that both the concepts and advantages of transferring stored high resolution high quality still image data to a printing device and using the stored high resolution high quality still image data to render a photograph are well known and expected in the art. At the time the invention was made, it would have been obvious to one with ordinary skill in the art to have transferring stored high resolution high quality still image data to a printing device and using the stored high resolution high quality still image data to render a photograph for the advantage producing a photographic album.

Conclusion

33. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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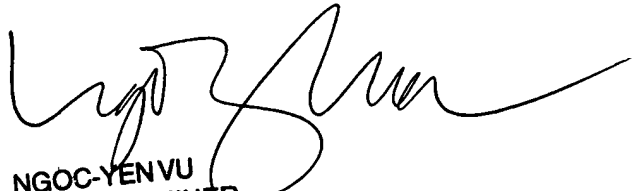
34. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Ngoc Yen Vu can be reached on 571.272.7320. The fax phone number for the organization where this application or proceeding is assigned is 571.273.3000.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JPM

October 6, 2005


NGOC-YENVU
PRIMARY EXAMINER

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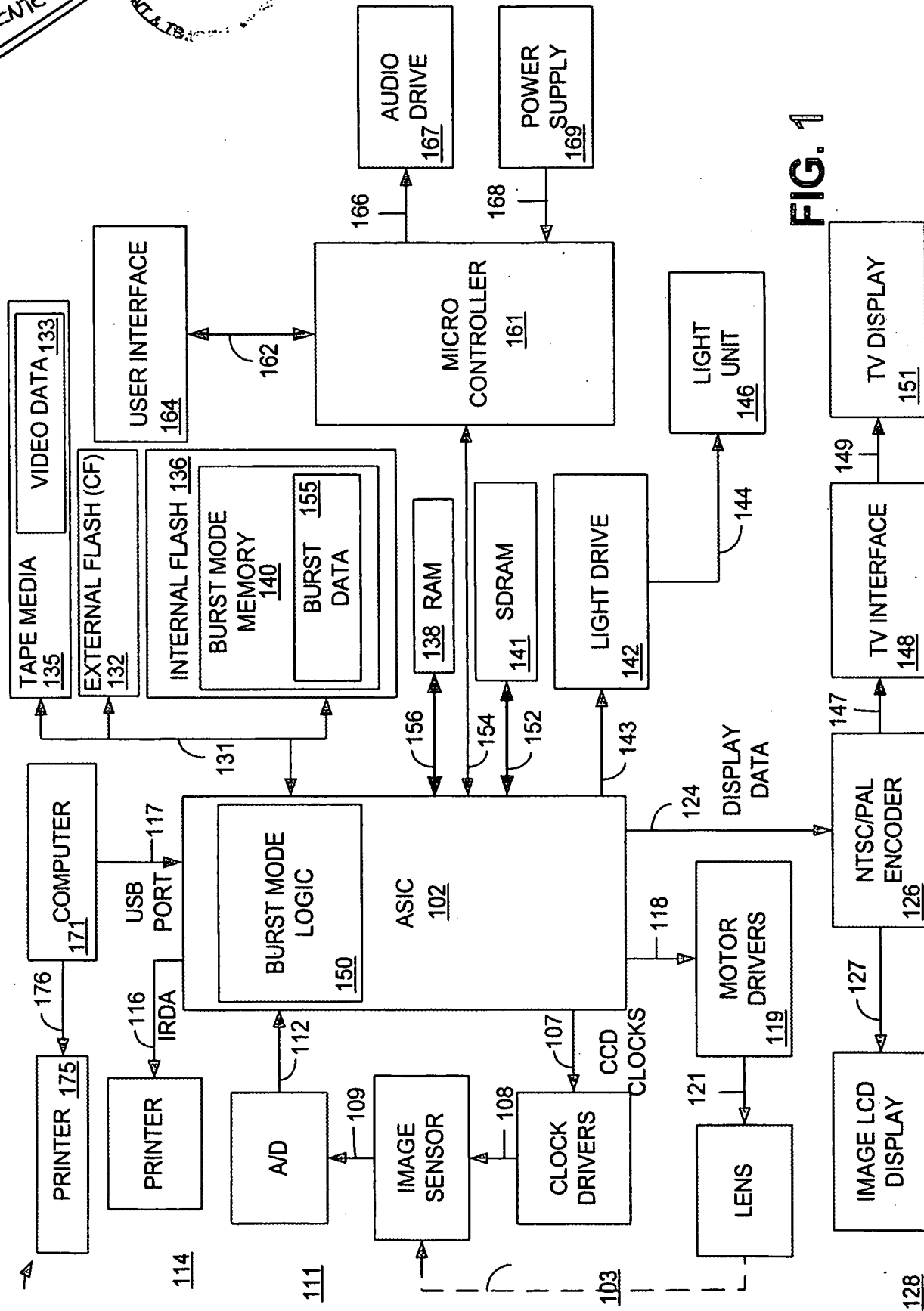


FIG. 1